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EXAMINER

SMITH, GARRETT A

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/525,381	<b>Applicant(s)</b> STEVENS ET AL.	
	<b>Examiner</b> Garrett Smith	<b>Art Unit</b> 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action is regarding Applicant's response filed 8 June 2009 to a prior Office Action. Claims 22 – 33 are pending. Claims 1 – 4 and 6 – 21 are canceled. Claims 22 – 33 are new.
2. This Office Action is the **Fifth Action, Non-Final Rejection**.

### ***Continued Examination under 37 CFR 1.114***

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed 8 June 2009 in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 June 2009 has been entered.

### ***Response to Arguments***

#### **35 USC § 112, Second Paragraph**

4. Applicant's amendments, filed 6 June 2009, regarding the rejection under 35 USC § 112, Second Paragraph of claim 1 – 4 and 6 – 21 have been fully considered and are persuasive. Applicant has canceled claims 1 – 4 and 6 – 21. For these reasons, the rejection under 35 USC § 112, Second Paragraph of claim 1 – 4 and 6 – 21 is **withdrawn**.

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**35 USC § 102(b)/103(a)**

5. Applicant's amendments, filed 6 June 2009, regarding the rejections under 35 USC § 102(b) of claims 1 – 4, 6 – 10, 14, 15, and 17 – 21 and 35 USC § 103(a) of claim 11 – 13 and 16 have been fully considered and are persuasive. Applicant has canceled claims 1 – 4 and 6 – 21. For these reasons, the rejections under 35 USC § 102(b) of claims 1 – 4, 6 – 10, 14, 15, and 17 – 21 and 35 USC § 103(a) of claim 11 – 13 and 16 is **withdrawn**.

**New Claims 22 – 33**

6. Applicant argues that Reber does not disclose any use of templates. The Examiner has to agree with this. Applicant's arguments against Sweat et al. are that Sweat et al. fails to store queries. However, the Examiner notes the claim language does not require that the template to contain a query ("may contain a query"). Thus, the execution of the query is also optional.

Applicant further argues that Sweat and Reber fail to describe relationship data that indicates a type of relationship. The Examiner submits that this relationship data is non-functional descriptive material and given no patentable weight. Further, it is noted that since the query is not required to be executed, the returned relationship data is also optional (even if it had weight).

***Claim Objections***

7. Claims **22 and 27** are objected to because of the following informalities.  
Appropriate correction is required.
8. In regard **claims 22 and 27**, “analysing” should be changed to “analyzing”.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
11. Claims **22 – 33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al (US Patent 5,584,006; patented 10 December 1996) in view of Sweat et al (US Patent 5,619,636; patented 8 April 1997).

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12. In regard to **claim 22**, Reber et al teaches a method of automatically composing a media article, the method comprising:

iteratively finding each section and executing any query in that section to return a selection of media objects each of which is associated with a corresponding media element and comprises digital metadata about its respective media element (*[col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis; the Examiner notes that queries are not required i.e. "may"; thus executing of the query is not required*); and

analyzing the digital metadata of the selected media objects, which digital metadata (*[col 3, lines 52 – 54], the table of relations links the linear media data and any digitized media data*) includes:

related media object identity data identifying a related media object, the media object containing the related media object identity data and the related media object being referred to as related media objects (*nonfunctional descriptive material*), and

relationship data which indicates the type of relationship between what is represented by the respective media elements corresponding to the related media objects (*nonfunctional descriptive material*);

wherein the method further comprises, in the event that the selected media objects include related media objects, arranging the media elements associated with the selected media objects, or identifiers thereof, in a media article in dependence upon the type of relationship of the related media objects as determined by the metadata analysis ([col 11, lines 39 – 41] *the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*).

Sweat et al further teaches said one or more media element selection criteria comprise a set of template data, each of said sets of template data listing a plurality of slots to be filled ([col 7, lines 12-18] *palette is a template with a number of slots*), and, for each slot, one or more associated requirements of media elements for filling said slot ([col 7, lines 12-18] *user query sets criteria for filling the slot on the palette*); and said one or more processors are further arranged in operation to provide said subset by, for each of said slots, retrieving one or more identifiers of media elements whose metadata accords with said one or more requirements for said slots ([col 7, lines 12-18] *fully constructed palette can be saved and used*). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

13. In regard to **claim 23**, Reber et al teaches a method according to claim 22 further comprising generating said related media object identity data and said relationship data *([col 10, lines 36 - 38] relational information pertinent to the list of source identifiers is added to a list of relational information i.e. generating relationship data, [col 10, lines 46-47] any new source identifiers are added to the source list i.e. generating identity data).*

14. In regard to **claim 24**, Reber et al teaches a method according to claim 22 wherein said metadata of each media object further comprises content data indicating what is represented by the media object's corresponding media element *([col 11, lines 5 – 7]; a time sequence that media data covers is stored in the table of relations as is shows equivalence), and*

wherein said step of iteratively finding and executing queries comprises selecting, from a plurality of media elements, one or more media elements in dependence upon said content data *([col 11, 34-38 and col 11, lines 43 - 47]; the application selections from set of media data the available and most complete media data based on the time sequence data).*

15. In regard to **claim 25**, Reber et al teaches a method according to claim 22 wherein said arranging step arranges said media elements so as to determine the order in which the user sees or hears what is represented by the selected media elements *([col 11, lines 41 – 49] the relationship between the two sets of media data is the equivalence of the media data including data on how the equivalent media overlap, what sequences overlap and their locations stored in the table of relationships; [col 11,*



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42 - 43] application arranges the media data in a time sequence and switches in and out media on the fly to keep what a user sees and hears in sequence).

16. In regard to **claim 26**, Reber et al. teaches a method according to claim 22 in which said media elements contain video data ([col 1, lines 17-19]).

17. In regard to **claim 27**, Reber et al. teaches a media article composition apparatus comprising:

one or more memory devices storing, for each of a plurality of media elements, metadata including:

related media object identity data identifying a related media object, the media object containing the related media object identity data and the related media object being referred to as related media objects (*nonfunctional descriptive material*) , and

relationship data which indicates the type of relationship between what is represented by the respective media elements corresponding to the related media objects (*nonfunctional descriptive material*) ;

analyzing the metadata of the selected media objects ([col 3, lines 52 – 54], the table of relations links the linear media data and any digitized media data); and,

in the event that the selected media objects include related media objects, arranging the media elements associated with the selected media objects, or identifiers thereof, in a media article in dependence upon the type of relationship of the related media objects as determined by the metadata analysis ([col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data,

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*i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis).*

Sweat et al further teaches said one or more media element selection criteria comprise a set of template data, each of said sets of template data listing a plurality of slots to be filled ([col 7, lines 12-18] palette is a template with a number of slots), and, for each slot, one or more associated requirements of media elements for filling said slot ([col 7, lines 12-18] user query sets criteria for filling the slot on the palette); and said one or more processors are further arranged in operation to provide said subset by, for each of said slots, retrieving one or more identifiers of media elements whose metadata accords with said one or more requirements for said slots ([col 7, lines 12-18] fully constructed palette can be saved and used). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

18. In regard to **claim 28**, Reber et al. teaches an apparatus according to claim 27 in which said relationship data indicates a causal type of relationship between what is represented by one media element and what is represented by the related media element (*nonfunctional descriptive material*).

19. In regard to **claim 29**, Reber et al. teaches an apparatus according to claim 27 wherein said one or more processors are further operable to provide a user with an interface enabling the user to enter said relationship data (*Figure 1*).

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20. In regard to **claim 30**, Reber et al. teaches an apparatus according to claim 27 wherein: said metadata is stored in a database (*Figure 2; data is stored in a table in memory*); and said one or more processors are further operable to query said database to obtain identifiers of media elements whose associated metadata meets one or more conditions specified in said query (*[col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*).

21. In regard to **claim 31**, Reber et al teaches the invention as substantially claimed. Reber et al does not explicitly teach the use of an object-oriented database. However, Sweat et al teaches said database comprises an object-oriented database and metadata for each set of stored media data is stored as an object in said object-oriented database (*[col 3, lines 54-57]*). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

22. In regard to **claim 32**, Reber et al. teaches an apparatus according to claim 27 further comprising a content store storing a plurality of media elements, said metadata for each media element including a pointer to the location of said media element in said content store (*[col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part*

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*of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis)..*

23. In regard to **claim 33**, Sweat et al further teaches said one or more media element selection criteria comprise a set of template data, each of said sets of template data listing a plurality of slots to be filled (*[col 7, lines 12-18] palette is a template with a number of slots*), and, for each slot, one or more associated requirements of media elements for filling said slot (*[col 7, lines 12-18] user query sets criteria for filling the slot on the palette*); and said one or more processors are further arranged in operation to provide said subset by, for each of said slots, retrieving one or more identifiers of media elements whose metadata accords with said one or more requirements for said slots (*[col 7, lines 12-18] fully constructed palette can be saved and used*). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

***Conclusion***

24. The Examiner requests, in response to this Office action, that support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the Examiner in prosecuting the application.

25. When responding to this Office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Garrett Smith whose telephone number is (571)270-1764. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571) 272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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August 27, 2009

/GS/  
Garrett Smith  
Patent Examiner  
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/Tim T. Vo/

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